

REMARKS

The enclosed is responsive to the Examiner's Final Office Action mailed on October 18, 2006 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Office Action claims 1-28 were pending. By way of the present response the Applicants have: 1) amended claims 1, 13, 19, and 24; 2) added no new claims; and 3) canceled no claims. As such, claims 1-28 are now pending. The Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented.

Claim Rejections

35 USC §102(e) Rejections

Claims 1-4, 9, 11-14, 18-21, 24-28 stand rejected under 35 U.S.C. § 102(e) as being considered to be anticipated by Pradhan, et al., U.S. Patent No. 6,968,178 (hereinafter "Pradhan").

For a 35 U.S.C. §102 reference to anticipate a claim, the reference must teach every element of the claim. Section 2131 of the MPEP recites: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

With respect to amended independent claim 1, Applicant teaches and claims: "A method of transmitting a message from a portable communication device comprising: preparing the message to be transmitted, wherein preparing includes receiving the

message from a user of the portable communication device via an input/output (I/O) module of the portable communication device; associating the message with a user defined event, wherein the user defined event is defined by the user of the portable communication device and includes at least one condition upon which transmission of the message will occur; and transmitting the message from the portable communication device at the time the user defined event occurs.”

Pradhan fails to teach at least “preparing the message to be transmitted, wherein preparing includes receiving the message from a user of the portable communication device via an input/output (I/O) module of the portable communication device... [and] associating the message with a user defined event, wherein the user defined event is defined by the user of the portable communication device and includes at least one condition upon which transmission of the message will occur...”

Pradhan discloses two portable communication devices, the advertiser’s hybrid phone (Fig. 2, 10) and the consumer’s hybrid phone (Fig. 2, 12). With respect to the advertiser’s hybrid phone (Fig. 2, 10), the phone has within it an electronic advertisement advertising something for sale (Col. 9, lines 20-30). Thus, the message to be transmitted by the phone is either an advertisement category (Fig. 2, 34) or a full advertisement (Fig. 2, 42). Preparing the message (e.g. the advertisement) to be transmitted from the advertiser’s phone (Fig. 2, 10), does not include receiving the message from a user of the phone (the advertiser) via an I/O module of the advertiser’s phone. Moreover, the advertiser, the user of the advertiser’s phone, does not define an event including a condition upon which transmission of the advertisement will occur. The transmission of the full advertisement will occur on reception of a request from a user of another device,

and does not occur based on an event defined by the advertiser (the user of the advertiser's phone).

With respect to the consumer's phone (Fig. 2, 12), the consumer may define conditions using a filter (Fig. 2, 38) related to when the phone may receive advertisements (Col. 9, lines 30-38). When the consumer's phone has received an advertisement of interest, the phone automatically sends out a signal requesting the full advertisement (Col. 9, lines 39-45). The only message transmitted by the consumer's phone is the signal sent automatically to indicate an advertisement of interest (Fig. 2, 40; Col. 9, lines 39-45). Preparing this message (the signal) does not include receiving the message (the signal) from a user of the phone (the consumer) via an I/O module of the consumer's phone.

Thus, Pradhan does not disclose each and every element of claim 1. Each of the other pending independent claims 13, 19, and 24 recite limitations that are similar to the limitations of claim 1, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish claims 13, 19, and 24 over Pradhan. Therefore, for at least these reasons, applicant respectfully submits that Pradhan does not anticipate all elements of independent claims 1, 13, 19, and 24.

Claims 2-4, 9, and 11-12 are dependent on independent claim 1. Claims 14 and 18 are dependent on independent claim 13. Claims 20-21 are dependent on independent claim 19. Claims 25-28 are dependent on independent claim 24. Thus, for at least the same reasons advanced above with respect to independent claims 1, 13, 19, and 24,

Applicant respectfully submits that Pradhan does not anticipate all elements of dependent claims 2-4, 9, 11-12, 14, 18, 20-21, and 25-28.

35 U.S.C. 103(a) Rejections

In order to establish a prima facie case of obviousness:

“First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” In re Vacch, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Manual of Patent Examining Procedure (MPEP), 8th Edition, August 2001, §2143.

Claims 5-8, 10, 15-17, and 22-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pradhan, in view of various other references. For at least the reasons set forth below, Applicant submits that these claims are not rendered obvious by Pradhan in view of the other cited references.

Pradhan is cited as teaching the limitations of base claims from which the rejected dependent claims depend. However, as argued above, the cited Pradhan reference fails to disclose or suggest all of the limitations set forth in claim 1 and analogous independent claims 13, 19, and 24. Whether or not the other cited references disclose the limitations cited by the Office Action, Pradhan does not teach or suggest at least the limitation of ““preparing the message to be transmitted, wherein preparing includes receiving the message from a user of the portable communication device via an input/output (I/O)

module of the portable communication device,” as provided in claim 1 and analogous independent claims 13, 19, and 24.

For at least the reason that Pradhan does not teach or suggest the above-cited claim limitations, no modification of Pradhan teaches or suggests the invention as recited in claims 5-8, 10, 15-17, and 22-23. Thus, Applicant respectfully submits that these dependent claims are not rendered obvious by Pradhan in view of the cited references.

In light of the comments above, the Applicant respectfully requests the allowance of all claims.

CONCLUSION

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 50-0221. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Cyndi M. Wheeler at (916) 356-5358.

Respectfully Submitted,

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